

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

NOVO NORDISK INC.

Plaintiff,

v.

DCA PHARMACY,

Defendant.

Case No. 3:23-cv-00668

Chief Judge Waverly D. Crenshaw, Jr.

Magistrate Judge Jeffery S. Frensley

**NOTICE OF SUPPLEMENTAL SUBMISSION**

Plaintiff Novo Nordisk Inc. (“Novo”) respectfully submits this Notice of Supplemental Submission in reference to Defendant DCA Pharmacy’s pending Motion to Dismiss. ECF Nos. 15–16. Although Novo disputes that DCA Pharmacy met its burden to show that Novo is “transacting business” in Tennessee, out of an abundance of caution, Novo has now obtained a certificate of authority from the Tennessee Department of State, attached as Exhibit A. Accordingly, DCA Pharmacy’s motion to dismiss is now moot. *See Pinnacle Health Clinics, LLC v. Sentinel Ins. Co.*, No. 3:14-00508, 2014 WL 12526474, at \*1 (M.D. Tenn. July 23, 2014) (“Dismissal for a lack of standing or capacity to sue is not a judgment on the merits . . . . As a practical matter, upon dismissal, Plaintiff could then refile this action. As a matter of judicial prudence, the Court concludes that Plaintiff has cured any issue about its lack of capacity or standing in this action.”); *see also Am. Bldgs. Co v. White*, 640 S.W.2d 569, 575 (Tenn. Ct. App. 1982) (“[A] corporation in non-compliance may file its lawsuit, cure its non-compliance (as ABC has done here) and then continue its litigation.”).

Counsel for Novo and DCA Pharmacy have met and conferred and Novo understands that DCA Pharmacy is withdrawing its Motion to Dismiss.

Respectfully submitted,

By: /s/ Steven A. Riley

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF filing system on the 8<sup>th</sup> day of January, 2024, upon the following:

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